



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

JUL 28 2016

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply to: OCE-101

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

NOTICE OF VIOLATION

The Honorable Joel Jolley
Mayor, City of Inkom
365 Rapid Creek Road
P.O. Box 60
Inkom, Idaho 83245

Re: City of Inkom WWTF
NPDES Permit Number ID-002024-9

Dear Mayor Jolley:

On April 20, 2005, the U.S. Environmental Protection Agency (EPA) issued a National Pollutant Discharge Elimination System (NPDES) permit to the City of Inkom, Idaho ("City") for its wastewater treatment facility ("Facility"), NPDES Permit Number ID-002024-9 ("Permit"). The Permit became effective on June 1, 2005, and expired on May 31, 2010. Subsequently, EPA administratively extended the Permit. In 2012, EPA initiated an administrative penalty action against the City due to 1,717 violations of the Permit effluent limits between November 2007 and May 2012. The penalty action culminated in the City signing a Consent Agreement and Final Order (CAFO). The City paid the penalty agreed upon in the CAFO and EPA closed the case on December 5, 2012. In addition to the CAFO, EPA placed the City under a Compliance Order (CO). The CO required the City be in complete compliance with the Permit or cease discharging to Waters of the U.S. by December 31, 2014. In November 2014, EPA received a letter from the City requesting an extension because it would be unable to meet the deadline due to unavoidable delays. EPA extended the deadline for compliance with the requirements of the CO until December 31, 2016.

The purpose of the EPA inspection, conducted on April 21, 2016, was to determine the City's compliance with the requirements of the Clean Water Act (CWA) and the NPDES Permit. The purpose of this letter is to notify you of violations EPA discovered upon review of administrative files, including the Discharge Monitoring Reports (DMRs) submitted by the City, and in response to the Facility inspection. I would like to express my appreciation for your staff's time and cooperation during the inspection.

ADMINISTRATIVE FILE REVIEW

1. EPA reviewed DMRs from June 2012 through June 2016 and identified effluent limitation exceedances that constitute 2,101 violations of the CWA, 33 U.S.C. § 1251 *et seq.* A list of these violations is enclosed (Enclosure A).
2. Part II.B.1 of the Permit states, in part, "The permittee must summarize monitoring results each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices. The permittee must submit reports monthly, postmarked by the 15th day of the following

month. The permittee must sign and certify all DMRs, and all other reports, in accordance with the requirements of Part IV.E. of this permit.”

Part IV.E.4 of the Permit states, in part, “Any person signing a document under this Part must make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.”

Upon review of DMRs from June 2012 through June 2016, EPA discovered that the Facility did not report two parameters on DMRs during that time. The Facility did not report the pH for the July 2013 monitoring period, which was due by August 15, 2013. The Facility also did not report the pH for the March 2014 monitoring period, which was due by April 15, 2014. Failure to report all required parameters on DMRs are violations of Part II.B.1 of the Permit. Failure to verify certified information submitted on the DMR is a violation of Part IV.E.4 of the Permit.

APRIL 2016 INSPECTION

1. Part II.B.1 of the Permit states, in part, “The permittee must summarize monitoring results each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.

Part IV.E.4 of the Permit states, in part, “Any person signing a document under this Part must make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.”

At the time of the inspection, the inspector conducted a review of random DMRs submitted by the Facility to EPA. The inspector found several discrepancies including dissolved oxygen (DO) measurements reported as pH on the DMRs for December 2014 and 2015. The inspector also found the negative symbol (-) used on DMRs for December 2014, October 2015, rather than the required “less than” symbol (<). The erroneous symbol usage led to the incorrect calculation for “Solids, Suspended percent removal” on the October and December 2015 DMRs. Failure to report accurately the information submitted on the DMR is a violation of Part II.B.1 of the Permit. Failure to verify certified information submitted on the DMR is a violation of Part IV.E.4 of the Permit.

2. II.C of the Permit states, in part, “Monitoring must be conducted according to test procedures approved under 40 CFR 136 or, in the case of sludge use or disposal, approved under 40 CFR 503, unless other test procedures have been specified in this permit.”

III.E of the Permit states, in part, “Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures.”

Table II of 40 CFR 136 specifies that preservation temperature for *E. coli* is less than 10°C and the preservation temperature for BOD₅, phosphorus, nitrogen, and ammonia is less than or equal to 6°C.

At the time of the inspection, the inspector collected copies of effluent sample chain-of-custody documents dated December 9, 2015, and March 2, 2016. During review of the documents, the inspector found that the samples were at temperatures of 11.6°C and 10.7°C, respectively, when the lab accepted them. Failure to preserve effluent samples at the correct temperature prior to testing is a violation of Parts II.C and III.E of the Permit.

3. Part II.A of the Permit states, in part, "Samples and measurements must be representative of the volume and nature of the monitored discharge."

Table 1, Part I.A.1 of the Permit establishes that the "Sample Type" for BOD₅, total suspended solids, total phosphorus, total inorganic nitrogen, and total ammonia will be an "8-hour composite."

Part V.20 defines an "8-hour composite" as a combination of at least three discrete samples collected at equal time intervals from the same location, over an 8-hour period.

At the time of the inspection, the Facility representative told the inspector that the Facility's composite sample was two discrete samples taken at 7:00am and 9:00am. Failure to follow sampling protocol does not produce a representative sample and is a violation of Parts II.A and V.20 of the Permit.

4. Part I.E.3 of the Permit states, in part, that the Quality Assurance Plan (QAP) must include at a minimum:
 - a. Details on the number of samples, type of sample containers, holding times, analytical methods, analytical detection and quantitation limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.
 - b. Map(s) indicating the location of each sampling point.

At the time of the inspection, the inspector noted that the QAP did not include any of the above named requirements. In addition, the QAP did not contain a description of the Facility's composite sampling procedure. Failure to maintain a complete QAP, including all of the minimum requirements listed in the Permit, is a violation of Part I.E.3 of the Permit.

5. Part II.G.1 of the Permit states, in part, "The permittee must report the following occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances: any violation of a maximum daily or instantaneous maximum discharge limitation for any of the pollutants in Table 1 of Part I.A."

Part II.G.2 of the Permit states, in part, "The permittee must also provide a written submission within five days of the time that the permittee becomes aware of any event required to be reported under subpart 1, above."

At the time of the inspection, the Facility representative informed the inspector that the Facility had never called to report a permit limit violation for *E. coli* although the Facility had experienced an *E. coli* limit exceedance in February 2014. EPA reviewed the Facility's files and did not find any written notification of the exceedances. Failure to file a telephonic report of an instant or daily

maximum permit limit exceedance within 24-hours of discovery and failure to provide a written submission within 5-days of the telephonic notification are violations of Part II.G.1 and II.G.2, respectively.

6. Part I.A.1, Table 1, Footnote 1 of the Permit states, "The average monthly *E. coli* count must not exceed a geometric mean of 126/100 ml based on a minimum of five samples taken every 3-5 days within a calendar month. See Part V for definition of geometric mean."

Part V.10 of the Permit defines "geometric mean" as the 'nth' root of the product of the quantities. For example, the geometric mean of 100, 200 and 300 is $(100 \times 200 \times 300)^{1/3} = 181.7$.

At the time of the inspection, the City representative responsible for preparing the Facility's DMRs said she had assumed the responsibility around October 2014. She also informed the inspector that she had only been taught to calculate the geometric mean for *E. coli* approximately six months before the inspection. For about one year prior to learning how to calculate the geometric mean, she reported the monthly average for *E. coli* based on the arithmetic mean. Failure to report *E. coli* as a geometric mean gives an incorrect level of water contamination and is a violation of Part I.A.1, Table 1, Footnote 1 of the Permit.

7. Part I.E of the Permit states, "The permittee must develop a quality assurance plan (QAP) for all monitoring required by this permit."

Part III.A of the Permit states, "The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application."

Part V.3 of the Permit defines "average monthly discharge limitation" as the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Part V.6 of the Permit defines "daily discharge" as the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

Page 19 of the NPDES Self-Monitoring User Guide states, in part, "Daily flow and concentrations are used in calculating loadings."

At the time of the inspection as mentioned above, the inspector found that the Facility did not have an updated and functional QAP. One segment that was missing from the QAP was "analytical methods". Because the reference was not developed, the Facility's lab calculated average mass loadings using the average monthly flow along with a daily concentration measured from a single sample collected once per month. As shown in Parts V.3 and V.6 of the Permit, and page 19 of the NPDES Self-Monitoring User Guide, above, that is not the correct method for calculating the average mass loadings of pollutants. The Facility's calculation method gives inaccurate results and is inconsistent with established calculation guidance. Failure to calculate the average loadings in accordance with established guidance is a violation of Part II.A of the Permit.

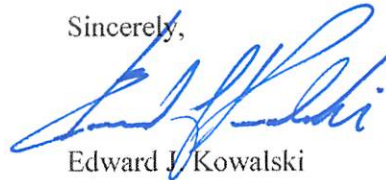
COMPLIANCE ORDER

The Compliance Order on Consent, signed by the City on September 28, 2012, required the City to meet certain deadlines to ensure the timely completion of Facility upgrades which would prevent effluent exceedance violations and contamination of Waters of the U.S. The initial deadline for awarding the contract for upgrade construction was November 1, 2013. On November 26, 2014, EPA received a request for an extension of the deadline from the City. EPA granted the request in March 2015. The new deadline for awarding of the contract was December 31, 2015. In a status report dated April 29, 2016, the City informed EPA that it missed the deadline for awarding the contract due to unforeseen and unavoidable factors. The letter also states that the contract has subsequently been awarded and the upgrades should be complete by October 1, 2016, the deadline for construction completion. After reviewing the letter, it appears the City was acting in good faith even though it missed the extended deadline. If the City encounters any further delays in construction, or believes it will miss another deadline, please contact EPA as soon as you realize there might be an issue.

Although our goal is to ensure NPDES facilities comply fully with their permits, the ultimate responsibility rests with the permittee. As such, I want to strongly encourage you to continue your efforts to maintain full knowledge of the Permit requirements, and other appropriate statutes, and to respond appropriately to ensure compliance. Notwithstanding your response to this letter, EPA retains all rights to pursue enforcement actions to address these and any other violations.

I have enclosed a copy of the inspection report (Enclosure B). If you have any questions concerning this matter, please call Raymond Andrews of my staff at (206) 553-4252.

Sincerely,



Edward J. Kowalski
Director

Enclosures

cc: Mr. Stephen Berry
Idaho Department of Environmental Quality
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Mr. Bruce Olenick
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